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11  
12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN FRANCISCO DIVISION  
16

17 UNITED STATES OF AMERICA,  
18  
19 Plaintiff,

20 v.

21 GIUSEPPE PENZATO, ET AL.,  
22  
23 Defendants.

Case No. CR 12-0089 EMC

STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING STATUS HEARING  
DATE AND EXCLUDING TIME UNDER  
THE SPEEDY TRIAL ACT

24 Plaintiff, by and through its attorney of record, and  
25 defendants, by and through their attorneys of record, hereby  
26 stipulate and ask the Court to find as follows:

27 1. That the parties are currently scheduled for a status  
28 and motion hearing on October 17, 2012. Further, that the  
parties are in settlement discussions and additional time is  
needed to permit defense counsel to meet with the acting chief of  
the criminal division of the United States Attorney's Office as a

1 part of these settlement discussions. For this reason, the  
2 parties have agreed to a continuance of the status and motion  
3 hearing, to November 14, 2012 at 2:30 p.m.

4       2. That the parties agree that the failure to grant such a  
5 continuance would unreasonably deny counsel the reasonable time  
6 necessary for effective preparation, taking into account the  
7 exercise of due diligence and that October 17, 2012 through  
8 November 14, 2012 should be excluded in accordance with the  
9 provisions of the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A), on  
10 the basis that the ends of justice are served by taking such  
11 action which outweigh the best interest of the public and the  
12 defendant in a speedy trial and also under subsection (B)(iv) for  
13 effective preparation of counsel, taking into account the  
14 exercise of due diligence.

15 Dated: October 3, 2012

/s/

Owen Martikan  
Assistant United States Attorney

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19  
20 Dated: October 3, 2012

/s/

Nanci Clarence  
Attorney for Defendant  
Giuseppe Penzato

21  
22  
23 Dated: October 3, 2012

/s/

Gail Shifman  
Attorney for Defendant  
Kesia Penzato

**[PROPOSED] ORDER**

This matter having come before the Court upon the Stipulation of the parties and GOOD CAUSE APPEARING, IT IS HEREBY ORDERED,

That the October 17, 2012 status and motion hearing shall be vacated and continued until November 14, 2012 at 2:30 p.m.;

And, that the time from October 17, 2012 through November 14, 2012 shall be excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv), to provide the defense lawyers with time to review proposed plea agreements and for effective preparation. The Court finds that (A) failure to grant the continuance would unreasonably deny defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence; and (B) the ends of justice served by the continuance outweigh the best interests of the public and the defendants in a speedy trial. See 18 U.S.C. § 3161(h)(1)(7)(A) & (B)(iv).

**IT IS SO ORDERED.**

Dated: October 4, 2012



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HONORABLE EDWARD M. CHEN  
United States District Judge